

REMARKS

Reconsideration in view of the foregoing amendments and the following remarks is respectfully requested. The applicants have reviewed the First Office Action of February 3, 2003 (the Office Action), and respectfully assert that this paper is responsive to all points raised therein.

I. Response to Restriction Requirement

Applicants elect to prosecute claims 1-21 and 28, of Group I. The applicants have cancelled claims 22-27, drawn to Groups II and III in view of the Restriction Requirement, without prejudice. In canceling claims 22-27 without prejudice, applicants reserve all rights in these claims to file divisional and/or continuation patent applications.

II. Response to Objections

Applicants have submitted a new Abstract (above) and accordingly, believe that the objection to the Abstract has been cured.

The disclosure in the specification is objected to for the reasons at paragraph 8 of the Office Action. Applicants have amended the specification in accordance with the Examiner's suggested changes, and therefore, respectfully assert that these objections have been cured.

The drawings were objected to based on two designations for reference character "28" and the indicators of reference characters "82" and "84". The Applicants have amended Drawing Figures 5, 9 and 13, in red ink. The drawing amendments for Fig. 5, correspond to the amendments made to the specification for the paragraph at page 10. The amendments made to claims 9 and 13 are to clearly point out the structures indicated by characters 26 and 28.

It is respectfully asserted that these drawing amendments are editorial in nature and do not add new matter. Approval is requested. Based on the above, it is respectfully asserted that all objections these objections have been cured.

III. Allowable Subject Matter

The applicant notes the Examiner's indication of allowable subject matter for claims 1, 2-4, 7, 9-12, 15 and 19 and 28.

IV. Amendments To Claims

Claims 1-11, 13, 15-17, 19-21 and 28 have been amended for formalities. These amendments are editorial in nature and do not add new matter. When necessary, the amendments for specific claims are discussed further below.

Claim 29 has been added, and is dependent on claim 20. It is respectfully asserted that claim 29 is supported at numerous places in the specification and drawings, for example, at page 14, line 14 to page 15, line 17, and drawing Fig. 1.

V. Response to Rejections under 35 USC 112, Second Paragraph

Claim 1-4, 17 and 28 were rejected under 35 USC 112, second paragraph for failing to particularly point out and distinctly claim the subject matter of the invention.

The applicants have amended claims 1, 17 and 28 in accordance with the Examiner's suggestions. Accordingly, it is respectfully asserted that claims 1, 17 and 28 are now proper under 35 USC 112, second paragraph, whereby these rejections have been overcome.

Similarly, claims 2-4, dependent on claim 1, are also proper under 35 USC 112, second paragraph, for the same reasons. Accordingly, the rejection under 35 USC 112, second paragraph, has been overcome.

VI. Response to Rejections Under 35 USC 102(b)

Claim 20 was rejected under 35 USC 102(b) as anticipated by Anderson (U.S. Patent No. 4,984,654).

Claim 20, as amended, is directed to a post shore and decking system with a main leg that is non-symmetrical and a ledger member with opposed ledger catches for receipt by the main leg.

Anderson is directed to a scaffolding system where guard post modules 12, of a post 34 and a coupling means 36, couple to a platform 10. The platform 10 attaches to the coupling means 36. By attaching in this manner, the platform 10 does not have any structure with ledger catches. Additionally, because the platform 10 couples with the coupling means 36 and not the post 34, there is not any structure on the post that will receive any portion of the platform 10, as with the claimed invention. Moreover, the post 34 is symmetrical, and this is not so with the claimed invention.

Based on the above, it is respectfully asserted that Anderson fails to show, teach or suggest any structure for a ledger member with opposed ledger catches for receipt by the main leg, as well as a non-symmetrical leg. Accordingly, claim 20 is neither anticipated under 35 USC 102(b) nor obvious by or in view of Anderson.

Claim 29 has been added to round out the scope of the invention of claim 20. Since claim 20 is dependent on claim 20, it is respectfully asserted that it is allowable over the cited art for the same reasons.

VII. Response to Rejections under 35 USC 103(a)

Claims 5, 13, 16, 18, 20 and 21 were rejected under 35 USC 103(a) as being unpatentable over D'Alessio, et al. (U.S. Patent No. 4,541,509) (D'Alessio) in view of Steele (U.S. Patent No. 3,784,151).

Claims 5 and 21 are directed to structures with a main legs, drophead member, received by the leg, and a ledger member held by the drophead member.

Claim 20 has been discussed above. The discussion is applicable here.

D'Alessio is directed to a scaffolding frame 18 supported by right triangular braces 24, 24'. A side lock fastener 42 is secured onto the legs 20, for securing cross bracing between the frames 18. D'Alessio at Col. 3, lines 47-50. Since the cross bracing is secured at these side lock fasteners 42, there is no teaching or suggestion in D'Alessio for any additional structures, such as drophead members to secure cross members between frame portions, such as ledger members and joists.

Steele, cited to teach the drophead member, ledger and joist member, can not be used to modify D'Alessio. D'Alessio, as discussed above, secures cross bracing along the sides of the legs with sidelock fasteners, and not on top of and coaxial with the legs, as does Steele. Accordingly, the Examiner's combination of Steele with D'Alessio can not be made, as D'Alessio fails to teach or suggest modification in accordance with the system taught by Steele.

Based on the reasons above, it is respectfully asserted that the Examiner's combination of D'Alessio and Steele is improper and could not be made absent hindsight. Accordingly, it is respectfully asserted that claim 5 and 21 are non-obvious under 35 USC 103(a) in view of the cited art.

Since claim 5, is non-obvious under 35 USC 103(a) in view of the cited art, claim 13 and 16, dependent thereon, are also non-obvious in view of the cited art for the same reasons. The claims further distinguish the invention over the cited art.

With respect to claim 20, D'Alesso is silent as to the ledger members used to join the frame members. While Steele teaches a frame system, it cross braces in a manner completely different than that of D'Alesso, as described above. Accordingly, the Examiner's combination of D'Alesso and Steele is improper, and therefore, Steele can not be used to teach additional structure for D'Alesso.

D'Alesso, standing alone, is structurally deficient, as it fails to teach or suggest any ledger members with opposed catches for receipt in the main legs. Accordingly, it is respectfully asserted that claim 20 is non-obvious under 35 USC 103(a) in view of the cited art.

Since claim 20, is non-obvious under 35 USC 103(a) in view of the cited art, claim 29, dependent thereon, is also non-obvious in view of the cited art for the same reasons. This claim further distinguishes the invention over the cited art.

VIII. Additional Remarks

The applicants also note the Examiner's citation of Muller (U.S. Patent No. 944,373) to complete the record.

IX. Conclusion

Should the Examiner have any question or comment as to the form, content or entry of this paper, the Examiner is requested to contact the undersigned at the telephone number below.

Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

Entry of this paper and allowance of all pending claims, 1-21, 28 and 29, is respectfully requested.

Respectfully submitted,

POLSINELLI, SHALTON & WELTE, PC

Date:

3 July 2003

by



Jerome R. Smith, Jr., Reg. No. 35,684
700 West 47th Street, Suite 1000
Kansas City, MO 64112
Tel: (816) 360-4119
Fax: (816) 753-1536
Attorneys for the Applicant